



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/568,182	08/24/2006	Donald Scot Thom	34-131	5503
23117 7590 03/06/2008 NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203				
EXAMINER				
VENNF, DANIEL V				
ART UNIT		PAPER NUMBER		
3617				
MAIL DATE		DELIVERY MODE		
03/06/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/568,182

**Applicant(s)**

THOM ET AL.

**Examiner**

DANIEL V. VENNE

**Art Unit**

3617

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 February 2006 and 24 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 12-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 August 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statements(s) (PTO/SB08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Paper No(s)/Mail Date \_\_\_\_\_
- 6) ☐ Other: \_\_\_\_\_
- 7) ☐ Notices of Informal Patent Application
- 8) ☐ Paper No(s)/Mail Date 2/13/2006

#### **DETAILED ACTION**

1. A preliminary amendment was received from applicant on 2/13/2006 and on 8/24/2006.
2. Claims 1-11 are canceled.
3. Claims 12-31 are amended.
4. The amendments made to the specification are acceptable.

#### ***Drawings***

5. The drawings are objected to under 37 CFR 1.83(a) because they fail to show cradle [11] in Fig. 3 as described in paragraphs 36 and 37 of the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. See MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If

Art Unit: 3617

the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Objections***

6. Claims 12, 22 and 27 are objected to because of the following informalities:

On line 10 of claim 1, "lowering of vessel" should be replaced with -- lowering of the vessel --.

On line 12 of claim 22 and on line 5 of claim 27 and, "altitude" should be replaced with -- attitude --.

All corresponding sections of the specification should be corrected accordingly.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claims 12-25 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claims 12-25 includes a feature limitation (recited on lines 10-12 in claim 12) which essentially specifies that the waterplane area of the vessel and dry dock remains substantially constant during lifting and lowering of a vessel. It appears that the

Art Unit: 3617

waterplane area during lifting and lowering will either increase or decrease and will not remain constant due to the configuration of the dry dock and the vessel and the change in the water surface area as the dry dock vertically ascends or descends in the water. The specification does not substantially support this claim limitation since it does not adequately explain how the waterplane remains constant during dry dock operation.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claims 12-17 and 19-31 are rejected under 35 U.S.C. 102(b) and (e) as being anticipated by Hey (US 2002/0132537 A1 and US 6823809 B2). Hey discloses all claimed features, including lifting cradle having two spaced arms pivotally mounted on a buoyant base having one or more buoyant hulls or floatation tanks [11] interconnecting the arms, platform (lifting structure) [13] mounted on the arms [19, 30], and platform means [30, 37] operable to ensure that the platform remains horizontal when the arms pivot about their pivotable attachment [38] to the base. Two extending upright members [19] which can be considered cradles may be attached to the base. The arms being of an arcuate shape does not carry significant patentable weight and the arms of Hey can

be considered generally arcuate in shape. Hey includes pairs of links which can be considered configured as generally claimed. Wheels (rollers) [26] are provided on the platform with an arcuate track provided on the platform support means [11] to maintain the platform in a horizontal attitude. See Figs. 1-6C.

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hey (US 6823809 B2). Hey discloses all claimed features as indicated above with the exception of the arms comprising inflatable buoyancy tanks. Hey discloses inflatable buoyancy tanks are known in the art in the Background of the Invention. Although Hey does not use inflatable buoyancy tanks, it would have been obvious to one of ordinary skill in the art to provide inflatable buoyancy tanks with Hey to provide additional buoyancy capability to the lifting platform ask known in the art to create the invention as claimed by applicant. The rationale would have been to improve upon the buoyancy capability of the lifting device using a known means to provide the predictable result to increase buoyancy for the floating watercraft lifting apparatus.

***Conclusion***

13. The prior art recited and not relied upon is considered pertinent to applicant's disclosure. Kriedt et al. (US 3782317) discloses arms [28] and flotation tanks [32].

Hennig (US 3415212) discloses arms and links. Janicki (US 123402) discloses a platform, arms, links and buoyancy tanks. Richardson (US 87291) discloses a platform, arms, links and buoyancy tanks. Mann (US 3412702) discloses arms and buoyancy tanks. Anderson (US 4276846) discloses a platform, arms and buoyancy tanks.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel V. Venne whose telephone number is (571) 272-7947. The examiner can normally be reached between 7:30AM - 4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel J. Morano can be reached on (571) 272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Art Unit: 3617

If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DVV

/Lars A Olson/

Primary Examiner, Art Unit 3617